

Court of Appeals, State of Michigan

ORDER

Michael Rutherford v Laurent Leduc

Docket No. 260391

LC No. 04-003153-NI

Richard A. Bandstra
Presiding Judge

Janet T. Neff

Joel P. Hoekstra
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The motion to appear and practice is GRANTED. Mark A. Matthes may appear and practice on behalf of plaintiffs in this Court for the purpose of this appeal only. However, Michael D. Marrs will appear as counsel of record for this party in compliance with Rule 15, § 2, of the Rules Concerning the State Bar of Michigan.

The application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review.

Bandstra, J. would grant the application. Plaintiffs' only plausible claim for benefits is under MCL 500.3135(3)(c) but that section only applies to "allowable" expenses under MCL 500.3107 through 3110. Because plaintiffs were uninsured at the time of the accident, no personal protection benefits, including those provided for in MCL 511.3107 through 3110, are "allowable" to them. MCL 500.3101(1). That conclusion applies to all benefits provided for in MCL 500.3107 through 3110, whether they are within or in excess of the time limitations specified in those statutory sections.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 11 2005
Date

Sandra Schultz Mengel
Chief Clerk